

### § 405.333

### 20 CFR Ch. III (4–1–12 Edition)

(c) We will pay the cost of issuing the subpoena and pay subpoenaed witnesses the same fees and mileage they would receive if they had been subpoenaed by a Federal district court.

(d) Within five days of receipt of a subpoena, but no later than the date of the hearing, the person against whom the subpoena is directed may ask the administrative law judge to withdraw or limit the scope of the subpoena, setting forth the reasons why the subpoena should be withdrawn or why it should be limited in scope.

(e) Upon failure of any person to comply with a subpoena, the Office of the General Counsel may seek enforcement of the subpoena under section 205(e) of the Act.

#### § 405.333 Submitting documents.

All documents prepared and submitted by you, *i.e.*, not including medical or other evidence that is prepared by persons other than the claimant or his or her representative, should clearly designate the name of the claimant and the last four digits of the claimant's social security number. All such documents must be clear and legible to the fullest extent practicable and delivered or mailed to the administrative law judge within the time frames that he or she prescribes. Documents that are typewritten or produced with word processing software must use type face no smaller than 12 point font.

#### § 405.334 Prehearing statements.

(a) At any time before the hearing begins, you may submit, or the administrative law judge may request that you submit, a prehearing statement as to why you are disabled.

(b) Unless otherwise requested by the administrative law judge, a prehearing statement should discuss briefly the following matters:

- (1) Issues involved in the proceeding,
- (2) Facts,
- (3) Witnesses,
- (4) The evidentiary and legal basis upon which your disability claim can be approved, and
- (5) Any other comments, suggestions, or information that might assist the administrative law judge in preparing for the hearing.

#### § 405.340 Deciding a claim without a hearing before an administrative law judge.

(a) *Decision fully favorable.* If the evidence in the record supports a decision fully in your favor, the administrative law judge may issue a decision without holding a hearing. However, the notice of the decision will inform you that you have the right to a hearing and that you have a right to examine the evidence on which the decision is based.

(b) *You do not wish to appear.* The administrative law judge may decide a claim on the record and not conduct a hearing if—

- (1) You state in writing that you do not wish to appear at a hearing, or
- (2) You live outside the United States and you do not inform us that you want to appear.

(c) When a hearing is not held, the administrative law judge will make a record of the evidence, which, except for the transcript of the hearing, will contain the material described in § 405.360. The decision of the administrative law judge must be based on this record.

[71 FR 16446, Mar. 31, 2006, as amended at 75 FR 33168, June 11, 2010]

#### § 405.342 Prehearing proceedings and decisions by attorney advisors.

After a hearing is requested but before it is held, an attorney advisor may conduct prehearing proceedings as set out in § 404.942(c) or § 416.1442(c) of this chapter. If, after the completion of these proceedings, we can make a decision that is fully favorable to you and all other parties based on the preponderance of the evidence, an attorney advisor, instead of an administrative law judge, may issue the decision. We use the procedures § 404.942 or § 416.1442 of this chapter when we conduct prehearing proceedings or issue decisions under this section.

[76 FR 24809, May 3, 2011]